

Index No.: _____/19

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS**

-----X
JOHN TABALA,

Plaintiff,

-against -

**DIOCESE OF BROOKLYN and ST. ANTHONY OF
PADUA-ST. ALPHONSUS PARISH,**

Defendants.
-----X

To the above-named defendants:

YOU ARE HEREBY SUMMONED to answer the Complaint in this action and to serve a copy of your answer or, if the Complaint is not served with this Summons, to serve a notice of appearance, on the Plaintiff's Attorneys within 20 days after the service of this Summons, exclusive of the day of service (or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in case your failure to appear or answer, judgement will be taken for the relief demanded herein.

**A COPY OF THIS SUMMONS WAS FILED WITH THE CLERK OF THE COURT,
KINGS COUNTY ON 10/28/19 IN COMPLIANCE WITH CPLR §§305(a) AND
306(a).**

Dated: New York, New York
October 28, 2019

MERSON LAW, PLLC

By: _____



Jordan K. Merson
Attorneys for Plaintiff
150 East 58th Street 34th Floor
New York, New York 10155
(212) 603-9100

TO:

DIOCESE OF BROOKLYN

310 Prospect Park West
Brooklyn, NY 11215

ST. ANTHONY OF PADUA-ST. ALPHONSUS PARISH

862 Manhattan Avenue
Brooklyn, NY 11222

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS**

-----X
JOHN TABALA,

Plaintiff,

Index No.: _____/19

-against -

**DIOCESE OF BROOKLYN and ST. ANTHONY OF
PADUA-ST. ALPHONSUS PARISH,**

**VERIFIED
COMPLAINT**

Defendants.
-----X

Plaintiff, above-named, complaining of the defendants, by **MERSON LAW, PLLC**,
respectfully alleges:

NATURE OF THE CLAIM

1. This is a case of plaintiff John Tabala who was sexually abused as a child by Father Robert Titone ("Titone") at and of St. Anthony of Padua-St. Alphonsus Parish ("St. Anthony") and Diocese of Brooklyn ("Diocese")
2. Titone was a priest at St. Anthony in Brooklyn, New York which was part of the Diocese.
3. Titone was known among the community and the children as a sexual predator yet he was allowed unfettered access to children including on Diocese and St. Anthony's premises.
4. Despite Titone's reputation as a sexual predator to young children, he continued to be a priest under the supervision and control of the Diocese of Brooklyn and St. Anthony of Padua-St. Alphonsus Parish.
5. The Diocese and/or St. Anthony knew or should have known Titone sexually abused children and/or had the propensity to sexually abuse children, including plaintiff.
6. Beginning in or about 1985 and continuing until approximately 1986, Titone, while acting under the scope of his employment with the Diocese and St. Anthony and on

behalf of the Diocese and St. Anthony, sexually abused plaintiff, by forcing him to engage in oral sex, anally raping him and other sexual abuse.

7. Plaintiff brings this lawsuit to recover for the emotional and physical suffering they incurred because of the negligence of the Diocese of Brooklyn and St. Anthony of Padua-St. Alphonsus Parish and to make sure no other child is forced to suffer the abuse and physical and mental trauma he felt and continues to feel.

PARTIES

8. At all times herein mentioned defendant **DIOCESE OF BROOKLYN** a not-for-profit corporation incorporated in the State of New York and by virtue of the laws of the State of New York.
9. At all times herein mentioned, defendant **DIOCESE OF BROOKLYN** was located at 310 Prospect Park West, Brooklyn, New York 11215.
10. At all times herein mentioned, Titone was a priest operating under the direction and control of defendant **DIOCESE OF BROOKLYN**, and its agents, servants and/or employees.
11. At all times herein mentioned, Titone was an agent, servant and/or employee of defendant **DIOCESE OF BROOKLYN**.
12. At all times herein mentioned defendant **ST. ANTHONY OF PADUA-ST. ALPHONSUS PARISH** was a not-for-profit corporation incorporated in the State of New York and by virtue of the laws of the State of New York.
13. At all times herein mentioned, defendant **ST. ANTHONY OF PADUA-ST. ALPHONSUS PARISH** was located at 862 Manhattan Avenue, Brooklyn, New York 11222.

14. At all times herein mentioned, Titone was a priest operating under the direction and control of defendant **ST. ANTHONY OF PADUA-ST. ALPHONSUS PARISH**, and its agents, servants and/or employees.
15. At all times herein mentioned, Titone was an agent, servant and/or employee of defendant **ST. ANTHONY OF PADUA-ST. ALPHONSUS PARISH**.
16. At all times herein mentioned, defendant **DIOCESE OF BROOKLYN** operated and/or controlled defendant **ST. ANTHONY OF PADUA-ST. ALPHONSUS PARISH**.
17. At all times herein mentioned defendants **DIOCESE OF BROOKLYN** and **ST. ANTHONY OF PADUA- ST. ALPHONSUS PARISH** were agents, servants, employees and/or alter egos of each other.

FACTS OF THE CASE

18. Defendants **DIOCESE OF BROOKLYN** and **ST. ANTHONY OF PADUA-ST. ALPHONSUS PARISH**'s negligence and recklessness caused Titone to have access to children, including plaintiff, without proper supervision, including on Diocese and St. Anthony's premises, despite its knowledge that Titone sexually abused children and/or had the propensity to do so and therefore are responsible for the injuries that plaintiff incurred because but for defendants **DIOCESE OF BROOKLYN** and **ST. ANTHONY OF PADUA-ST. ALPHONSUS PARISH**'s negligence, plaintiff would not have suffered the mental and physical anguish inflicted by Titone. Defendants **DIOCESE OF BROOKLYN** and **ST. ANTHONY OF PADUA-ST. ALPHONSUS PARISH**'s gross negligence, reckless, wanton, and/or willful conduct warrants punitive liability.
19. Titone was the priest at St. Anthony of Padua-St. Alphonsus Parish in Brooklyn, New York.

20. Plaintiff worked in the rectory to help support his family and served as an altar boy at St. Anthony. Beginning in or about 1985 and continuing until approximately 1986, Titone sexually abused plaintiff by forcing him to perform oral sex and anally raping him.
21. Plaintiff was sexually abused by Titone approximately six times.
22. Titone used the power and authority provided to him by the Diocese and St. Anthony to have access to plaintiff and other children and sexually abuse them.
23. As such, plaintiff suffered catastrophic and lifelong injuries as a result of defendant **DIOCESE OF BROOKLYN and ST. ANTHONY OF PADUA-ST. ALPHONSUS PARISH**'s negligence in undertaking a duty to keep patrons, including young children, of its parishes safe from predators and failing to act in accord with that duty by allowing Titone, a known predator, to continue his role and position of authority where he would continue to have the opportunity to prey on young children.

**AS AND FOR A FIRST CAUSE OF ACTION FOR
NEGLIGENCE AGAINST DIOCESE OF BROOKLYN**

24. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 23., inclusive, with the same force and effect as if hereinafter set forth at length.
25. At all times mentioned herein, defendant **DIOCESE OF BROOKLYN** owed a duty of care to keep the children of its parishes and schools, including plaintiff, safe from sexual abuse by its clergymen under its supervision and control, including on company premises, that ultimately befell the plaintiff on the Diocese and church premises.
26. At all times mentioned herein, defendant **DIOCESE OF BROOKLYN** and/or its agents, servants and/or employees breached the above-stated duty in a negligent, reckless, willful and wanton manner, and caused plaintiff to be sexually assaulted.

27. As a result of the negligence of defendant **DIOCESE OF BROOKLYN** and/or its agents, servants and/or employees, plaintiff was caused serious personal injuries, emotional distress, mental pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.
28. By reason of the foregoing, plaintiff is entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.
29. By reason of the foregoing, plaintiff is entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.
30. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
31. This action falls within exceptions to Article 16 of the C.P.L.R.

**AS AND FOR A SECOND CAUSE OF ACTION FOR NEGLIGENT
HIRING, RETENTION AND SUPERVISION AGAINST DIOCESE OF BROOKLYN**

32. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 31., inclusive, with the same force and effect as if hereinafter set forth at length.
33. Defendant **DIOCESE OF BROOKLYN**, had a duty to supervise and prevent known risks of harm to children and students of its parishes by its clergymen.
34. Defendant was negligent in hiring, retaining and supervising their personnel, such as Titone, who were careless, unskillful, negligent and reckless and acted in a willful and wanton manner in not possessing the requisite knowledge and skill of priests and church officials who should have properly been supervising the priests to ensure the safety of the children of the parishes.

35. Defendant **DIOCESE OF BROOKLYN** knew or should have known Titone sexually abused and/or had the propensity to sexually abuse children, including plaintiff, and did nothing to stop it, and failed to properly supervise Titone.
36. As a result of such negligent hiring, supervising and retention, plaintiff was caused to suffer serious personal injuries, emotional distress, conscious pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.
37. By reason of the foregoing, plaintiff is entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.
38. By reason of the foregoing, plaintiff is entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.
39. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
40. This action falls within exceptions to Article 16 of the C.P.L.R.

**AS AND FOR THE THIRD CAUSE OF ACTION FOR NEGLIGENT
INFLICTION OF EMOTIONAL DISTRESS AGAINST DIOCESE OF BROOKLYN**

41. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 40., inclusive, with the same force and effect as if herein set forth at length.
42. Defendant **DIOCESE OF BROOKLYN** and their agents, servants and/or employees, knew or reasonably should have known that the failure to properly advise, supervise and hire Titone, the priest who sexually abused plaintiff, would and did proximately result in physical and emotional distress to plaintiff.

43. Defendant **DIOCESE OF BROOKLYN** and their agents, servants and/or employees knew or reasonably should have known that the sexual abuse and other improper conduct would and did proximately result in physical and emotional distress to plaintiff.
44. Defendant has the power, ability, authority and duty to intervene with and/or stop the improper conduct that resulted in plaintiff being sexually abused by Titone.
45. Despite said knowledge, power and duty, defendant negligently failed to act so as to stop, prevent, and prohibit the improper conduct that resulted Titone sexually abusing plaintiff.
46. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
47. This action falls within exceptions to Article 16 of the C.P.L.R.

**AS AND FOR A FOURTH CAUSE OF ACTION FOR NEGLIGENCE
AGAINST ST. ANTHONY OF PADUA- ST. ALPHONSUS PARISH**

48. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 47., inclusive, with the same force and effect as if hereinafter set forth at length.
49. At all times mentioned herein, defendant **ST. ANTHONY OF PADUA- ST. ALPHONSUS PARISH** owed a duty of care to keep the children of its parishes, including plaintiff, safe from sexual abuse by its clergymen under its supervision and control, including on company premises, that ultimately befell the plaintiff on the Diocese and church premises.
50. At all times mentioned herein, defendant **ST. ANTHONY OF PADUA- ST. ALPHONSUS PARISH** and/or its agents, servants and/or employees breached the above-stated duty in a negligent, reckless, willful and wanton manner, and caused plaintiff to be sexually assaulted.

51. As a result of the negligence of defendant **ST. ANTHONY OF PADUA- ST. ALPHONSUS PARISH** and/or its agents, servants and/or employees, plaintiff was caused serious personal injuries, emotional distress, mental pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.
52. By reason of the foregoing, plaintiff is entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.
53. By reason of the foregoing, plaintiff is entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.
54. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
55. This action falls within exceptions to Article 16 of the C.P.L.R.

**AS AND FOR A FIFTH CAUSE OF ACTION FOR
NEGLIGENT HIRING, RETENTION AND SUPERVISION
AGAINST ST. ANTHONY OF PADUA-ST. ALPHONSUS PARISH**

56. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 55., inclusive, with the same force and effect as if hereinafter set forth at length.
57. Defendant **ST. ANTHONY OF PADUA-ST. ALPHONSUS PARISH**, had a duty to supervise and prevent known risks of harm to children and students of its parishes, including plaintiff, by its clergymen.
58. Defendant was negligent in hiring, retaining and supervising their personnel, such as Titone, who were careless, unskillful, negligent and reckless and acted in a willful and wanton manner in not possessing the requisite knowledge and skill of priests and church

officials who should have properly been supervising the priests to ensure the safety of the children of the parishes, including plaintiff.

59. Defendant **ST. ANTHONY OF PADUA-ST. ALPHONSUS PARISH** knew or should have known Titone sexually abused and/or had the propensity to sexually abuse children, including plaintiff, and did nothing to stop it.
60. As a result of such negligent hiring, supervising and retention, plaintiff was caused to suffer serious personal injuries, emotional distress, conscious pain and suffering, mental anguish and/or physical manifestations thereof, and other losses, all of which have not as of yet been ascertained.
61. By reason of the foregoing, plaintiff is entitled to compensatory damages from defendants in such sums as a jury would find fair, just and adequate.
62. By reason of the foregoing, plaintiff is entitled to punitive damages from defendants in such sums as a jury would find fair, just and adequate.
63. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
64. This action falls within exceptions to Article 16 of the C.P.L.R.

**AS AND FOR A SIXTH CAUSE OF ACTION FOR
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
AGAINST ST. ANTHONY OF PADUA-ST. ALPHONSUS PARISH**

65. Plaintiff repeats, reiterates and realleges each and every allegation contained in those paragraphs of this Complaint marked and designated 1. through 64., inclusive, with the same force and effect as if herein set forth at length.
66. Defendant **ST. ANTHONY OF PADUA-ST. ALPHONSUS PARISH** and their agents, servants and/or employees, knew or reasonably should have known that the failure to

properly advise, supervise and hire Titone, the priest who sexually abused plaintiff, would and did proximately result in physical and emotional distress to plaintiff.

67. Defendant **ST. ANTHONY OF PADUA-ST. ALPHONSUS PARISH** and their agents, servants and/or employees knew or reasonably should have known that the sexual abuse and other improper conduct would and did proximately result in physical and emotional distress to plaintiff.
68. Defendant has the power, ability, authority and duty to intervene with and/or stop the improper conduct that resulted in plaintiff being sexually abused by Titone.
69. Despite said knowledge, power and duty, defendant negligently failed to act so as to stop, prevent, and prohibit the improper conduct that resulted Titone sexually abusing plaintiff.
70. The amount of damages sought exceeds the jurisdiction of all lower courts which would otherwise have jurisdiction.
71. This action falls within exceptions to Article 16 of the C.P.L.R.

WHEREFORE, plaintiff demands judgement against defendant in such sum as a jury would find fair, adequate and just.

Dated: New York, New York
October 28, 2019

MERSON LAW, PLLC

By: 

Jordan K. Merson
Attorneys for Plaintiff
150 East 58th Street 34th Floor
New York, New York 10155
(212) 603-9100

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS-----X
JOHN TABALA,*Plaintiff,*

Index No.: _____/19

-against -

DIOCESE OF BROOKLYN and ST. ANTHONY OF
PADUA-ST. ALPHONSUS PARISH,ATTORNEY
VERIFICATION*Defendants.*
-----X

JORDAN K. MERSON, an attorney duly admitted to practice in the Courts of New York State and a member of the firm **MERSON LAW, PLLC**, attorneys for the plaintiff in the within action, hereby affirms under penalty of perjury:

That he has read the within complaint and knows the contents thereof, and that the same is true to his own knowledge, except as to the matters therein stated to be alleged upon information and belief, and that as to those matters he believes it to be true;

That the sources of his information and knowledge are investigations and records in the file; and

That the reason this verification is made by affirmant and not by the plaintiff is that the plaintiff is not within the County where the attorney has his office.

Dated: New York, New York
October 28, 2019



JORDAN K. MERSON

Index No.

Year 2019

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS

JOHN TABALA,

Plaintiff,

- against -

DIOCESE OF BROOKLYN and ST. ANTHONY OF PADUA-
ST. ALPHONSUS PARISH,

Defendants.

SUMMONS AND VERIFIED COMPLAINT

Merson Law, PLLC

Attorneys for Plaintiff

Office and Post Office Address, Telephone

150 East 58th Street 34th

Fl.

New York, New York

10155

(212) 603-9100

To: All Parties
